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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,888	09/17/2003	Xin Xue	SONY-26400	9089

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EXAMINER

BLAIR, DOUGLAS B

ART UNIT	PAPER NUMBER
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2442

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10/16/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/666,888	Applicant(s) XUE ET AL.	
	Examiner DOUGLAS B. BLAIR	Art Unit 2442	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 and 29-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 29-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/3/09, 4/23/09, 5/19/09, 7/10/09, 7/16/09, 9/30/09</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The applicant's amendment has overcome the rejection based on 35 USC section 101.

Response to Arguments

Applicant's arguments filed 6/19/2009 have been fully considered but they are not persuasive.

With respect to the 102 rejection of claim 29, the applicant alleges that Loyall does not teach a subscriber configured to store subscriber content and Loyall also does not teach a subscriber configured to receive content from the syndicator if the version number is larger than the subscriber content version number. In response to this argument, the Examiner points out that claim 29 does not feature a syndicator but instead a content control circuit. The claim does not specify where the content control circuit is in relation to the server and the subscriber so the teachings of Loyall read on the applicant's broadly claimed relationship. If the content control circuit is intended to be a server side element then it should be claimed as such.

With respect to claims 1, 35 and 44, the applicant's claims do not specify where the syndicator is nor does the applicant's specification feature a definition of a syndicator that limits it to being a server side element.

The Examiner agrees there are differences between what the applicant is trying to claim and what is disclosed by Loyall but these differences are not adequately claimed. If the applicant wants to further prosecution, the syndicator must be explicitly claimed as a server side element.

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Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 29-33 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Number 7,478,047 to Loyall et al.

See the mapping of claim 1 below. The content disclosed is the types of media claimed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-14, 18-19, 34-39, 41-47, and 49-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 7,478,047 to Loyall et al. in view of U.S. Patent Number 7,117,482 to Nguyen et al.

As to claim 1, Loyall teaches a version based content distribution system comprising: content comprising a version number (col. 75, lines 1-25); a syndicator, wherein the syndicator is configured to transmit the version number (col. 75, lines 1-25, the components file with the

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version number is transmitted separately from the actual content); a subscriber content comprising a subscriber version number (col. 75, lines 19-20); a subscriber configured to store the subscriber content, to compare the version number with the subscriber content version number, and to receive the content from the syndicator if the version number is different from the subscriber content version number (col. 75, lines 19-25); however Loyall does not explicitly teach the comparison determining which version is larger.

Nguyen teaches a method for comparing software version number by determining which number is larger (See Abstract).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Loyall regarding subscriber version management with the teachings of Nguyen regarding comparing the size of version numbers because Nguyen provides a specific example of the broad comparison method discussed by Loyall. One of ordinary skill in the art would be able to compare numbers to determine which one is greater.

As to claim 2, Loyall downloads from a server.

As to claim 3, Loyall teaches a display.

As to claim 4-6 and 37-39, Loyall does not specify what type of local computer is being used. One of ordinary skill in the art would recognize that the local computer could be a PDA, other hand held device or PC without altering the scope of Loyall.

As to claim 7, Loyall teaches a "predetermined transfer method" as claimed.

As to claim 8-10, the transfer in Loyall is considered application driven, isochronous, and one way.

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As to claim 11, Loyall uses a network so one of ordinary skill would recognize the use of an "IP method" as broadly claimed.

As to claim 12, In Loyall the user controls what is downloaded. This is considered a preference.

As to claims 13-14, these features are inherent to a web server.

As to claims 18-19, they are rejected for the same reasoning as claims 32-33.

As to claim 34, it rejected for the same reasoning as claim 1.

Claims 35 and its dependents are rejected for the same reasoning as claim 1 and its dependents.

Claims 44-47 and 49-51 are rejected for similar reasoning.

Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 7,478,047 to Loyall et al. in view of U.S. Patent Number 6,990,498 to Fenton et al.

As to claims 15-17, Loyall teaches claim 1; however Loyall does not discuss the use of a tree structure.

Fenton teaches the tree structure claimed in claims 15-17 (See Abstract for example).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Loyall regarding the distribution of content by comparing version numbers with the teachings of Fenton regarding a tree structure because a tree structure is an efficient method for providing data to users.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 7,478,047 to Loyall et al. in view of U.S. Patent Number 6,119,165 to Li et al.

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As to claim 20, Loyall makes obvious claim 1; however Loyall does not explicitly teach a proxy as claimed in claim 20.

Li teaches a proxy as claimed in claim 20.

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Loyall regarding the distribution of content by comparing version numbers with the teachings of Li regarding using a proxy in a separate computer because a proxy allows a client to access the internet using a singular portal (Background of Li).

Claims 31, 40, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 7,478,047 to Loyall et al. in view of U.S. Patent Application Publication Number 2001/0042073 by Saether et al.

As to claim 31, Loyall anticipates claim 29; however Loyall does not teach a version identifier comprising a date and time stamp.

Saether teaches a version identifier comprising a time stamp (paragraph 50).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Loyall regarding the distribution of content by comparing version numbers with the teachings of Saether regarding version comprised of time stamps because time stamps are one possible specific implementation of the broad disclosure on version numbers provided by Loyall.

Conclusion

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THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOUGLAS B. BLAIR whose telephone number is (571)272-3893. The examiner can normally be reached on 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Douglas B Blair/
Primary Examiner, Art Unit 2442